

court shall notify the Register of it, sending with the notification a copy of the order or judgment together with the written opinion, if any, of the court.

(c) Upon receiving the notifications specified in this section, the Register shall make them a part of the public records of the Copyright Office.

(Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2586.)

HISTORICAL AND REVISION NOTES

HOUSE REPORT NO. 94-1476

Section 508, which corresponds to some extent with a provision in the patent law (35 U.S.C. 290), is intended to establish a method for notifying the Copyright Office and the public of the filing and disposition of copyright cases. The clerks of the Federal courts are to notify the Copyright Office of the filing of any copyright actions and of their final disposition, and the Copyright Office is to make these notifications a part of its public records.

§ 509. Seizure and forfeiture

(a) All copies or phonorecords manufactured, reproduced, distributed, sold, or otherwise used, intended for use, or possessed with intent to use in violation of section 506(a), and all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced, and all electronic, mechanical, or other devices for manufacturing, reproducing, or assembling such copies or phonorecords may be seized and forfeited to the United States.

(b) The applicable procedures relating to (i) the seizure, summary and judicial forfeiture, and condemnation of vessels, vehicles, merchandise, and baggage for violations of the customs laws contained in title 19, (ii) the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from the sale thereof, (iii) the remission or mitigation of such forfeiture, (iv) the compromise of claims, and (v) the award of compensation to informers in respect of such forfeitures, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions of this section; except that such duties as are imposed upon any officer or employee of the Treasury Department or any other person with respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the provisions of the customs laws contained in title 19 shall be performed with respect to seizure and forfeiture of all articles described in subsection (a) by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General.

(Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2587; Pub. L. 105-80, § 12(a)(14), Nov. 13, 1997, 111 Stat. 1535.)

AMENDMENTS

1997—Subsec. (b). Pub. L. 105-80 substituted “merchandise, and baggage” for “merchandise; and baggage” before “under the provisions of the customs laws”.

§ 510. Remedies for alteration of programming by cable systems

(a) In any action filed pursuant to section 111(c)(3), the following remedies shall be available:

(1) Where an action is brought by a party identified in subsections (b) or (c) of section 501, the remedies provided by sections 502 through 505, and the remedy provided by subsection (b) of this section; and

(2) When an action is brought by a party identified in subsection (d) of section 501, the remedies provided by sections 502 and 505, together with any actual damages suffered by such party as a result of the infringement, and the remedy provided by subsection (b) of this section.

(b) In any action filed pursuant to section 111(c)(3), the court may decree that, for a period not to exceed thirty days, the cable system shall be deprived of the benefit of a statutory license for one or more distant signals carried by such cable system.

(Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2587; Pub. L. 106-113, div. B, § 1000(a)(9) [title I, § 1011(a)(1), (3)], Nov. 29, 1999, 113 Stat. 1536, 1501A-543.)

HISTORICAL AND REVISION NOTES

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Section 509(b) specifies a new discretionary remedy for alteration of programming by cable systems in violation of section 111(c)(3): the court in such cases may decree that, “for a period not to exceed thirty days, the cable system shall be deprived of the benefit of a compulsory license for one or more distant signals carried by such cable system.” The term “distant signals” in this provision is intended to have a meaning consistent with the definition of “distant signal equivalent” in section 111.

Under section 509(a), four types of plaintiffs are entitled to bring an action in cases of alteration of programming by cable systems in violation of section 111(c)(3). For regular copyright owners and local broadcaster-licensees, the full battery of remedies for infringement would be available. The two new classes of potential plaintiffs under section 501(d)—the distant-signal transmitter and other local stations—would be limited to the following remedies: (i) discretionary injunctions; (ii) discretionary costs and attorney’s fees; (iii) any actual damages the plaintiff can prove were attributable to the act of altering program content; and (iv) the new discretionary remedy of suspension of compulsory licensing.

AMENDMENTS

1999—Pub. L. 106-113, § 1000(a)(9) [title I, § 1011(a)(1)], substituted “programming” for “programing” in section catchline.

Subsec. (b). Pub. L. 106-113, § 1000(a)(9) [title I, § 1011(a)(3)], substituted “statutory” for “compulsory”.

§ 511. Liability of States, instrumentalities of States, and State officials for infringement of copyright

(a) IN GENERAL.—Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity, shall not be immune, under the Eleventh Amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in

Federal court by any person, including any governmental or nongovernmental entity, for a violation of any of the exclusive rights of a copyright owner provided by sections 106 through 122, for importing copies of phonorecords in violation of section 602, or for any other violation under this title.

(b) REMEDIES.—In a suit described in subsection (a) for a violation described in that subsection, remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any public or private entity other than a State, instrumentality of a State, or officer or employee of a State acting in his or her official capacity. Such remedies include impounding and disposition of infringing articles under section 503, actual damages and profits and statutory damages under section 504, costs and attorney's fees under section 505, and the remedies provided in section 510.

(Added Pub. L. 101-553, §2(a)(2), Nov. 15, 1990, 104 Stat. 2749; amended Pub. L. 106-44, §1(g)(6), Aug. 5, 1999, 113 Stat. 222; Pub. L. 107-273, div. C, title III, §13210(4)(C), Nov. 2, 2002, 116 Stat. 1909.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-273 substituted “122” for “121”.

1999—Subsec. (a). Pub. L. 106-44 substituted “121” for “119”.

EFFECTIVE DATE

Section effective with respect to violations that occur on or after Nov. 15, 1990, see section 3 of Pub. L. 101-553, set out as an Effective Date of 1990 Amendment note under section 501 of this title.

§ 512. Limitations on liability relating to material online

(a) TRANSITORY DIGITAL NETWORK COMMUNICATIONS.—A service provider shall not be liable for monetary relief, or, except as provided in subsection (j), for injunctive or other equitable relief, for infringement of copyright by reason of the provider's transmitting, routing, or providing connections for, material through a system or network controlled or operated by or for the service provider, or by reason of the intermediate and transient storage of that material in the course of such transmitting, routing, or providing connections, if—

(1) the transmission of the material was initiated by or at the direction of a person other than the service provider;

(2) the transmission, routing, provision of connections, or storage is carried out through an automatic technical process without selection of the material by the service provider;

(3) the service provider does not select the recipients of the material except as an automatic response to the request of another person;

(4) no copy of the material made by the service provider in the course of such intermediate or transient storage is maintained on the system or network in a manner ordinarily accessible to anyone other than anticipated recipients, and no such copy is maintained on the system or network in a manner ordinarily ac-

cessible to such anticipated recipients for a longer period than is reasonably necessary for the transmission, routing, or provision of connections; and

(5) the material is transmitted through the system or network without modification of its content.

(b) SYSTEM CACHING.—

(1) LIMITATION ON LIABILITY.—A service provider shall not be liable for monetary relief, or, except as provided in subsection (j), for injunctive or other equitable relief, for infringement of copyright by reason of the intermediate and temporary storage of material on a system or network controlled or operated by or for the service provider in a case in which—

(A) the material is made available online by a person other than the service provider;

(B) the material is transmitted from the person described in subparagraph (A) through the system or network to a person other than the person described in subparagraph (A) at the direction of that other person; and

(C) the storage is carried out through an automatic technical process for the purpose of making the material available to users of the system or network who, after the material is transmitted as described in subparagraph (B), request access to the material from the person described in subparagraph (A),

if the conditions set forth in paragraph (2) are met.

(2) CONDITIONS.—The conditions referred to in paragraph (1) are that—

(A) the material described in paragraph (1) is transmitted to the subsequent users described in paragraph (1)(C) without modification to its content from the manner in which the material was transmitted from the person described in paragraph (1)(A);

(B) the service provider described in paragraph (1) complies with rules concerning the refreshing, reloading, or other updating of the material when specified by the person making the material available online in accordance with a generally accepted industry standard data communications protocol for the system or network through which that person makes the material available, except that this subparagraph applies only if those rules are not used by the person described in paragraph (1)(A) to prevent or unreasonably impair the intermediate storage to which this subsection applies;

(C) the service provider does not interfere with the ability of technology associated with the material to return to the person described in paragraph (1)(A) the information that would have been available to that person if the material had been obtained by the subsequent users described in paragraph (1)(C) directly from that person, except that this subparagraph applies only if that technology—

(i) does not significantly interfere with the performance of the provider's system or network or with the intermediate storage of the material;